

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WA.No. 477 of 2007(B)

AGAINST THE JUDGEMENT N WPC.20251/2006

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APPELLANT: PETITIONER

C.D.GEORGE, CHEMBAKASSERY HOUSE,
THANISSERY P.O.,IRINJALAKUDA.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS/ESPONDENTS

1. REGIONAL TRANSPORT AUTHORITY,
THRISSUR.
2. SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THRISSUR.
3. C.L.VARGHESE, CHAKKALACKAL HOUSE,
KIZHUTHANI,THANISSERY, THRISSUR.
4. K.S.R.T.C,
REP.BY ITS DISTRICT TRANSPORT OFFICER,
THRISSUR.

R1 & R2 BY SR.GOVERNMENT PLEADER SMT.K.MEERA

R3 BY SRI.SHOBY K.FRANCIS

SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**K.S.RADHAKRISHNAN, Ag.C.J. &
M.N.KRISHNAN, J.**

W.A.No.477 of 2007

Dated, this the 23rd day of March, 2007

JUDGMENT

Radhakrishnan, Ag.C.J.

Writ petition was preferred by the appellant seeking a writ of certiorari to quash Ext.P3 proceedings of the Regional Transport Authority by which regular permit was granted to the third respondent. Counsel for the writ petitioner submitted that the R.T.A. has failed to take notice of Ext.P1 notification dated 9th May, 2006. Counsel also submitted that in a similar situation the R.T.A. has passed Ext.P5 proceedings directing the Secretary to comply with the directions of the State Transport Authority. Reference was also made to Ext.P6 proceedings of the R.T.A. rejecting the application on the ground that the portion from Irinjalakuda to Thrissur, 24 Kms. overlaps the supplementation scheme Ernakulam-Thrissur. Counsel further submitted that the same stand has not been taken by the R.T.A. in the matter of

grant of regular permit in the instant case. Hence writ petitioner has approached this Court challenging Ext.P3. The learned Single Judge has dismissed the writ petition placing reliance on an earlier judgment in W.P.(C) No.20209 of 2006. We have perused the judgment in W.P.(C) No.20209 of 2006. The learned Single Judge disposed of that writ petition placing reliance on a Full Bench decision of this Court reported in **Binu Chacko v. Regional Transport Authority and another** (ILR 2006 (1) Kerala 863).

2. Learned counsel appearing for the appellant submitted that the learned Single Judge has wrongly applied the dictum laid down by the Full Bench. Specific reference was made to paragraph 28 of the said judgment and submitted that it may not be proper or expedient to restrict the scope of the words 'person aggrieved' to settlement of timings only, though under the scheme of the Act, existing operators may have in the normal course, legal grievance against settlement of timings only. The Full Bench also did not rule out any other grievance of a similar nature which would tilt the balance in favour of one operator and

against another as a consequence of orders issued by R.T.A. or S.T.A. Counsel, therefore, submitted that the learned Single Judge was not justified in not entertaining the writ petition. Counsel appearing for the third respondent submitted that on the basis of Ext.P3 order he is operating on the route. He also submitted that the learned Single Judge was justified in rejecting the challenge against Ext.P3 placing reliance on an earlier judgment of this Court. Considering the entire facts and circumstances of the case, we feel that the R.T.A. has not taken a consistent view, especially when almost in a similar situation the R.T.A. rejected the application for regular permit on the ground that it overlaps the route.

3. In the circumstances, we feel it will be appropriate that a direction be given to the R.T.A. to reconsider the matter afresh. In order to enable the R.T.A. to reconsider the matter, we set aside Ext.P3 and the orders passed in pursuance thereto. We make it clear that we have not expressed any final opinion on the merits of the case. The Regional Transport Authority, Thrissur is directed to consider the application submitted by the third

respondent for regular permit afresh within two months from the date of receipt of a copy of this judgment. Till orders are passed by the Regional Transport Authority as directed by us the status quo will be maintained.

Writ appeal is disposed of as above. I.A.No.158 of 2007 would stand dismissed.

**K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.**

**M.N.KRISHNAN,
JUDGE.**

vns